

REMARKS

1. Applicant thanks the Examiner for his helpful comments and suggestions.
2. It should be appreciated that Applicant has elected to amend Claims 1, 6, and 16 solely for the purpose of expediting the patent process in a manner consistent with the PTO's Patent Business Goals, 65 Fed. Reg. 54603 (9/8/00). In making such amendments, Applicant has not and does not in any way narrow the scope of protection to which the Applicant considers the invention herein entitled. Rather, Applicant reserves Applicant's right to pursue such protection at a later point in time and merely seeks to pursue protection for the subject matter presented in this submission.
3. Claims 1-25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. patent no. 6,502,194 (hereinafter Berman) in view of U.S. patent application publication no. 2001/0030660 (hereinafter Zainoulline).

As to Claims 1, 6, and 16, to distinguish the claimed invention from the recited references more thoroughly, Applicant amends Claim 1, 6, and 16 to describe the small portion of the download as complying with royalty requirements. The Applicants have recognized that downloading a small portion of a song allows for pre-buffering while still complying with various royalty requirements. This allows a user to listen to a small portion of a song and skip to the next song without incurring a royalty. This is particularly advantageous in combination with the invention having a buffer allowing a user to rapidly skip between songs with minimal or no delay. Neither Berman nor Zainoulline recognize the importance of pre-loading only a small portion of a song complying with royalty requirements. Hence, the Applicants have recognized and implemented a novel cost saving method and apparatus that allows a user to skip one or more songs without

having an unintended delay between skips. Support for the amendments is found at least in the application as filed at page 3, lines 6-9 and page 15, lines 1-5. Accordingly, the rejection of Claims 1, 6, and 16 and all dependents therefrom under 35 U.S.C. § 103(a) as being unpatentable over Berman in view of Zainouline is deemed to be overcome.

As to Claims 1, 6, and 16, to still further distinguish the claimed invention from the recited references more thoroughly, Applicant amends Claim 1 to describe the processor as being in a computer and Claims 6 and 16 to clarify that downloading is to the computer. Support for the amendments is found at least in the abstract; in the application as filed at page 1, line 24 and 26; in the application as filed at page 2, lines 4-7 and 11; and in Claim 6. As Berman does not teach a processor, Berman can not teach a personal computer having a processor or downloading to a computer having a processor. In stark contrast, Berman clearly teaches away from the use of a home personal computer at column 2, line 46 to column 3, line 1. MPEP 2142.02 states that "a prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention." Further, the cited section of Zainouline make no mention of the use of a computer or a personal computer. Therefore, neither Berman nor Zainouline teach a personal computer having a processor. Accordingly, the rejection of Claims 1, 6, and 16 and all dependents therefrom under 35 U.S.C. § 103(a) as being unpatentable over Berman in view of Zainouline is deemed to be overcome.

4. The specification is amended at page 5, line 24 to page 6, line 9 to correct a grammatical error.

5. The specification is further amended at page 6, line 28 to page 7, line 2 to insert a skipped word. Support for the insertion of the skipped word is found at

least at page 6, lines 28-29. Applicant avers that no new matter is added by way of this amendment to the specification.

6. The specification is amended at page 8, lines 15-16 and at page 13, lines 12-15 to correct typographical errors.

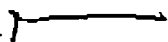
7. The specification is amended at page 11, lines 11-12 to correct a figure label.

8. The specification is amended at page 14, lines 16-23 to insert a skipped preposition. Support for the insertion of the skipped word is found at least at page 14, line 19. Applicant avers that no new matter is added by way of this amendment to the specification.

CONCLUSION

In view of the above, the Application is deemed to be in allowable condition. The Examiner is therefore earnestly requested to withdraw all outstanding rejections and objections, allowing the Application to pass to issue as a United States Patent. Should the Examiner have any questions regarding the application, he is respectfully urged to contact Applicant's attorney at (650) 474-8400.

Respectfully submitted,



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